

Regulations of the Joe Serna, Jr. Farmworker Housing Grant Program

TITLE 25. Housing And Community Development

Division 1. Housing and Community Development

Chapter 7. Department of Housing and Community Development Programs

Subchapter 3. Farmworker Housing Grant Program

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§7200. General

These regulations set forth the policies and procedures governing the management and use of the Farmworker Housing Grant Fund established by Section 50517.5 of the California Health and Safety Code. They also delegate authority for the initial recommendation of approval, rejection, amendment, and termination of grants, with the exception of emergency grants, from the Director of the Department of Housing and Community Development to the Committee referred to in this subchapter.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY Repealer of Subchapter 3 (Sections 7200-7242) and new Subchapter 3 (Sections 7200-7242 not consecutive) filed as an emergency 7-1-80; effective upon filing Certificate of Compliance included (Register 80, No. 27).2. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7202. Definitions

The following definitions shall govern for purposes of this subchapter:

“**Agricultural employment**” means employed in the cultivation and tillage of the soil; the production, cultivation, growing and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, fur bearing animals, or poultry; dairying,

forestry, and lumbering operations; and any work on a farm as incident to or in conjunction with such farming operations, including the delivery and preparation of commodities for market or storage.

“Agricultural household” means an agricultural worker or workers and other persons who reside or will reside with an agricultural worker in an assisted unit.

“Agricultural worker” means an individual who derives or prior to retirement or disability derived a substantial portion of his/her income from agricultural employment.

“Assisted unit” means a residential housing unit that is developed or rehabilitated with assistance from the Fund and is subject to the occupancy and resale restrictions of a Grant Agreement or Subsequent Grant Agreement as determined by Section 7208(g).

“Assisted real property” means any real property that is developed or rehabilitated with assistance from the Fund and is subject to the conditions of a Grant Agreement or Subsequent Grant Agreement.

“Cash investments” include but are not limited to:

- (1) Grantee's cash contribution;
- (2) Private financial assistance;
- (3) Local public entity financial assistance;
- (4) State financial assistance from programs other than the Fund;
- (5) Federal government financial assistance.

“Cooperative Housing Corporation” means a limited-equity housing cooperative as defined by Section 33007.5 of the Health and Safety Code, which has, among other restrictions, resale controls on membership shares. A cooperative housing corporation must be legally organized as a nonprofit entity, and must be formed primarily for the purpose of holding title to improved real property where all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share in the corporation held by the person having such right of occupancy.

“Cooperative housing fees” means any assessments, charges, fees, or other housing-related costs that an occupant of a unit within a cooperative housing development must pay to the cooperative housing corporation which owns the development.

“Department” means the California Department of Housing and Community Development.

“FmHA” means the Farmers Home Administration, an agency of the United States Department of Agriculture, or its successor agency.

“Fund” means the Farmworker Housing Grant Fund.

“Grant” means a commitment of money from the Fund that is made to a grantee by the Department.

“Grant committee” means the Rural Loan and Grant Committee established pursuant to Title 25, California Administrative Code, Section 6902(a).

“Grantee” means an eligible organization that has applied or has received approval for a grant from the Farmworker Housing Grant Fund. The term **“Grantee”** shall include successors in interest and assignees of a grantee.

“Housing cost”--for homeownership and cooperative developments, see Title 25, California Administrative Code, Section 6920.

“Housing development” means residential housing and related support facilities necessary to such housing that receives assistance from the Fund and includes assisted housing units.

“In-kind contributions” include but are not limited to contributions directly related to the housing development in the form of:

- (1) labor and/or other eligible services;
- (2) land and/or site development;
- (3) existing structures;
- (4) materials.

“Local public entity” means any county, city, city and county, redevelopment agency or public housing authority, and also includes any state agency, public district or other political subdivision of the state, and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low income. It also includes the governing body or housing authority of a federally recognized Indian tribe. It also includes two or more local public entities acting jointly.

“Low/lower income household”--see Title 25, California Administrative Code Section 6928.

“Manufactured housing” means a mobilehome, as defined by Health and Safety Code Section 18008, and factory-built housing, as defined in Health and Safety Code Section 19971.

“Matching share” means the proceeds of loans, cash investments, or in-kind contributions that the grantee commits to the total development or rehabilitation cost of the housing development. The Department will determine the valuation and eligibility of a proposed matching share where necessary.

“Net income”--see Title 25, California Administrative Code, Section 6916.

“Program” means the Farmworker Housing Grant Program.

“Rehabilitation” means repairs and improvements to a dwelling unit necessary to make it a modest, decent, safe, and sanitary dwelling which meets applicable state and local building and housing standards mandated by the enforcement agency.

“Related support facilities” include but are not limited to:

- (1) water and sewer facilities and other utilities directly related to the proposed housing development.
- (2) physical improvements for child care services, recreational activities, meeting room(s) all of which are intended for use of project residents.
- (3) solar and other alternative energy efficient systems.

“Very low income”--see Title 25, California Administrative Code, Section 6926.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

§7204. Eligibility Criteria

(a) Organizations. Only organizations which satisfy the following criteria are eligible grantees:

- (1) The grantee is a local public entity, a nonprofit corporation or a cooperative housing corporation;
- (2) The grantee has demonstrated its ability to proceed with the construction or rehabilitation of the housing development upon commitment of grant funds; and
- (3) The grantee is or will be the record owner in fee of, or the holder of a leasehold interest in, the site on which the housing development is or will be situated. The terms and conditions of any proposed lease shall permit the lessee to make improvements on and encumber the property, and permit compliance with all requirements of this subchapter.

For rental projects, a lease accepted as security shall meet the requirements of Subchapter 19, Section 8316.

- (b) Housing Development. The grant may only be expended for housing developments that meet the following criteria:
- (1) The housing development must contain assisted units to be occupied by agricultural households.
 - (2) To the greatest extent possible, assisted units are to be occupied by lower-income agricultural households.
 - (3) To the greatest extent possible, any non-assisted units are to be occupied by agricultural households.
 - (4) To the extent consistent with the maintenance of the financial integrity of the housing development, assisted units are to be made available to lower-income households at affordable rents as defined in Section 6692 of Title 25, California Administrative Code; and for lower-income occupants of cooperative housing, at a total monthly housing cost, including utilities, not to exceed 25% of monthly net income.
 - (5) When grant funds are to be used for homeownership purposes, assisted units are to be made available to lower-income households at a total monthly housing cost not to exceed 35% of monthly net income.
 - (A) An eligible household's monthly housing costs may exceed 35% of monthly net income if all of the following conditions are satisfied:
 1. the proposed housing costs are approximately the same as the present housing costs of the household, and
 2. a satisfactory credit record has been maintained by the households, and
 3. the household has demonstrated an ability to sustain its present housing expense without serious difficulty.
 - (B) In the alternative, a different standard can be applied if it has otherwise been determined by the Department that the eligible household can assume greater responsibility for monthly housing costs.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7206. Eligible Expenditures

- (a) The costs which may be charged against the grant are only those which are approved by the Department as reasonable and necessary for the construction or rehabilitation of the housing development, including, but not limited to, the following:
- (1) The cost of refinancing or acquiring land and any buildings thereon, including payments for commissions, options, deposits, or contracts to purchase properties on a proposed housing development site or payments for the purchase of such properties.
 - (2) The cost of site preparation, demolition, and clearing.
 - (3) Architectural, engineering, legal, accounting, packaging and other fees paid or payable in connection with the planning, execution, and financing of a housing development and the finding of an eligible mortgage for a housing development.
 - (4) The cost of necessary reports, studies, surveys, plans, permits, and fees.
 - (5) The cost of insurance, interest and financing, tax and assessment costs, and other operating and carrying costs incurred during construction or rehabilitation.

- (6) The cost of construction or rehabilitation of the housing development and related support facilities including material, direct labor, and actual construction supervision. The cost of land improvements, including, but not limited to, landscaping, site preparation and streets, sewers, utilities, and other offsite improvements, whether or not such costs are paid in cash or in a form other than cash.
- (7) A reasonable profit in addition to job overhead to the general contractor and subcontractors.
- (8) An allowance for reasonable reserves set aside to defray unanticipated additional development or rehabilitation costs and operating costs during the initial years of occupancy of the housing development.
- (9) Repayment of a predevelopment loan made by a public entity or nonprofit corporation incorporated in any state or the District of Columbia.
- (10) The cost of developing or modifying a housing development or structure so that it is accessible to and convenient for the elderly or disabled.
- (11) The cost of such other items, including tenant and homeowner relocation and tenant and homeowner counseling, as the Department shall determine to be reasonable and necessary for the development or rehabilitation of a housing development.
- (12) The cost of solar and other energy efficient alternative systems.
- (b) Unauthorized Costs. The grant may not be used for a grantee's administrative costs, except those directly related and necessary to a grantee's implementation of its responsibilities in connection with a grant, as determined by the department. No part of grant funds may be used for project organization or planning for the housing development.
- (c) Special Limitations. The following limitations on eligible expenses will apply.
 - (1) Engineering Fees. These fees must not exceed prevailing rates unless an unusual engineering situation exists and is substantiated. Normally, the engineering fees allowable under FmHA and/or HUD-FHA schedules and practices will provide the upper limit for such cost expenditures.
 - (2) Architectural Fees. These fees must not exceed prevailing rates unless an unusual architectural situation exists and is substantiated. Normally, the architectural fees allowable under FmHA and/or HUD-FHA schedules and practices will provide the upper limit for such expenditures.
 - (3) Grant or Loan Packager Fees. Grant funds may be used for such fees if all of the following occur:
 - (A) The tasks and fees of the packager are enumerated in an agreement between the applicant and the packager which is subject to prior approval by the Department;
 - (B) The grantee is incapable of carrying out the task for which these services are sought;
 - (C) The grantee does not have the funds with which to hire a packager;
 - (D) Payments to the packager are staged in accordance with the completion of various tasks;
 - (E) For FmHA financed housing developments, such fees will be disbursed from the Fund only if, in advance of the initial disbursement, FmHA approves the use of a packager and the fees to be paid; and

- (F) Charges against the grant for such fees may be approved to a maximum of 1% of the housing development's costs or \$100 per unit, whichever is less.
- (4) Legal Fees. These fees must be reasonable relative to the legal work required. Normally, the legal fees allowable under FmHA and/or HUD-FHA schedules and practices will provide the upper limit for such expenses. Billings or statements for legal services must be itemized.
- (d) Waivers. The Director may waive any requirement of this section not required by law if it is determined that such requirement would adversely affect the purposes of the grant program or that such requirement would impose an intolerable burden on the grantee

Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7208. Special Conditions

- (a) Matching Share. Before the Department will make a firm commitment for a grant, the grantee must demonstrate to the satisfaction of the Department that it can and will provide for the housing development a matching share at least equal to the offered grant.
- (b) Architectural and Engineering Requirements. Housing developments not involving a public lender or insurer of loans shall be subject to a Departmental review of the architectural and engineering aspects of the project.
- (c) Grant Documents. Before the Department will close on a grant, the grantee will be required to submit to the Department for prior approval the following documents which will have been prepared by the Department or at its direction:
- (1) A resolution authorizing the receipt of the grant;
 - (2) Evidence of the grantee's title or right to title to the proposed site;
 - (3) An Agreement to Enter a Grant Agreement, a Grant Agreement and/or other agreements prescribed by the department;
 - (4) Other organizational or housing development documents required by the Department.
- (d) Non-Discrimination and Affirmative Action. Grantee must agree not to discriminate on account of race, sex, age, marital status, physical disability, creed, religion, or national origin and to abide by all local, state and federal regulations precluding such discrimination. Moreover, grantees must agree to adopt and implement affirmative action programs to cover all aspects of the construction, rehabilitation, marketing, and management of the housing developed with the assistance of the Fund.
- (1) Grantees will be required to execute certificates of nondiscrimination.
 - (2) Grantees will be required to adopt and implement affirmative action programs approved by the Department.
- (e) Local, State or Federal Requirements. Grantees are required to abide by such local, state or federal rules and regulations as are applicable to the proposed housing development. These may include but are not limited to: zoning ordinances, building and housing codes; planning; historical preservation, environmental, tenant occupancy, and relocation regulations; and applicable federal requirements.
- (f) Reports. Grantees are required to provide the Department with periodic reports on the progress of the housing development and the expenditure of grant funds from the date of grant approval to date of completion of the housing development and occupancy by

agricultural households. Grantees are also required to provide the Department with reports on the characteristics of the housing development and its occupants.

(g) Minimum Number of Assisted Units.

(1) For rental or cooperative housing developments the minimum number of units to be designated as assisted units shall be determined as follows:

(A) When the funds granted by the Department constitute an amount less than 25% of the total development/rehabilitation cost or value of an assisted project, whichever is applicable, the number of units subject to agricultural household occupancy and resale restrictions (assisted units) shall be as follows: For every 1% of the total development/rehabilitation cost or value which the funds granted by the Department constitute, a minimum of 2% of the total number of units of the housing development shall be designated as assisted units.

(B) When the funds granted by the Department constitute an amount of 25% or more of the total development/rehabilitation cost or value of a housing development, all of the units of the housing development shall be designated as assisted units.

(C) In the event that the agricultural worker population in a cooperative or rental housing development falls below the minimum number required to occupy the housing development either through change of status or by persons leaving the housing development, the grantee shall implement an affirmative marketing plan which will recruit other agricultural households as units become available until the minimum number is once again in occupancy.

(2) For homeownership housing developments, the number of assisted units shall be the total number of units to be purchased by individual agricultural households with the assistance of grant funds. In no event shall the percentage of assisted units in the housing development be less than the percentage of the total development cost or value which grant funds constitute.

(h) Cooperative Housing Corporations. The articles of incorporation and bylaws of grantees organized as cooperative housing corporations must be drafted or amended to implement the restrictions of the Grant Agreement and the requirements of this subchapter. The articles of incorporation and bylaws must be submitted to the Department for approval prior to the disbursement of grant funds.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7210. Site and Design Criteria

(a) Grantees shall observe the following criteria relative to the location and design of proposed housing developments:

(1) Site Criteria.

(A) The location is in or reasonably near a residential area with access to schools, shopping, medical services, social services and employment;

(B) The location does not unnecessarily confine assisted units to an area in which there exists a high concentration of low income households.

- (C) The location of the housing development is not found to be inconsistent with the housing element or housing assistance plan of the public jurisdiction in which the housing development is to be located;
- (D) The characteristics of the site, including its topography and distance to public utilities, do not result in unreasonable development or rehabilitation costs; and
- (E) The site will not be in a 100 year flood plain unless sufficient measures have been taken, as determined by the Department, to ensure the security of the housing development in the event of flooding.

(2) Design Criteria.

- (A) The design will provide safe, sanitary, and decent housing meeting the requirements of all applicable building and housing standards and codes;
- (B) The design to the maximum extent feasible, is compatible with the existing community in which the housing development will be located;
- (C) To the maximum extent feasible, the design of the improvements, the materials and the mechanical equipment to be used, and the siting of the structures shall be consistent with effective energy conservation design principles; and
- (D) The design provides for a cost effective use of grant funds in order to achieve affordable housing costs for agricultural households.

- (b) A major deficiency in meeting one or more of the listed site or design criteria may result in the Department's rejection of an application.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Amendment of subsection (a)(1) filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7212. Priorities in the Use of Funds

- (a) Special consideration may be given to housing developments which meet one or more of the following criteria:
 - (1) The plan for development or rehabilitation provides for ownership or eventual ownership by agricultural employees, including ownership of shares in a cooperative housing corporation.
 - (2) The housing development is intended for year-round occupancy rather than seasonal use.
 - (3) The housing development conforms with the Statewide Housing Plan and the Farmworker Housing Assistance Plan.
 - (4) The number of dwelling units projected to be occupied by agricultural households will be large in relation to the total amount of grant funds requested.
 - (5) The plan for development provides for rehabilitation of existing housing provided that the total development cost of rehabilitation compares favorably with the cost of new construction for a comparable facility.
 - (6) The plan for development or rehabilitation provides that some or all of the housing units of the housing development will be accessible and adaptable to the needs of the elderly or disabled.

- (7) There are social and economic factors associated with the housing development such as:
 - (A) The housing development is intended to serve households with the greatest need for government assistance in obtaining adequate and affordable housing.
 - (B) Labor and economic development programs and any other relevant programs will be utilized.
 - (C) Other significant social or economic aspects merit special considerations.
 - (8) There is an urgent need for housing in the area where the housing development will be located because of health and safety factors.
 - (9) The housing development will utilize solar and other alternative energy efficient systems.
 - (10) The housing development will utilize manufactured housing or other cost-efficient design or construction techniques for the purpose of making housing affordable to lower-income households.
- (b) The priority criteria are not quantified and are of equal value.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50007.5 and 50517.5, Health and Safety Code.
HISTORY Amendment of subsection (a) filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7214. Grant Committee

- (a) All non-emergency grants, amendments to grants, and major amendments to conditions affecting grants require prior approval by the grant committee at a duly convened meeting of the committee. In addition, any substantial amendments to the requirements of this subchapter or major policy decisions respecting program operation, shall be approved at such a meeting.
- (b) The grant committee shall consist of members and shall operate as set forth in Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Part 1 of Title 25, California Administrative Code
- (c) Grant proposals that are eligible for funding but are not considered for approval because of the unavailability of funds will be considered at the next committee meeting at which funds are available and will be judged with other grant applications considered at that meeting.
- (d) The grant committee may establish limitations as to the total amount, in dollars, of grants it may approve at any meeting.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.
HISTORY 1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7216. Application Process

- (a) An applicant seeking a grant must submit a Grant Application to the Department.
- (b) Applications for grant funds will be reviewed by Department staff which shall advise the grant committee on proposed projects.
- (c) A summary of all completed applications will be submitted to the Grant Committee for approval or rejection.

- (d) All applicants shall be notified of the date, time and place of the grant committee meeting and of the applicant's right to attend such meeting.
- (e) Applicants will be notified in writing of the action of the committee.
 - (1) If the committee approves the application for a grant, the letter to the applicant will contain the procedures, requirements, and any special conditions needed for grant closing.
 - (2) If the committee rejects the application, the letter will inform the applicant of the reasons for the rejection and of its right to appeal the decision.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7218. Contents of Grant Applications

- (a) The contents of the grant application and necessary supporting documents will vary with the source of the matching share which the applicant will use to finance the proposed housing development.
- (b) Use of FmHA, CHFA or Other Department Funds. If the applicant will use FmHA, CHFA or other Department program loans or grants as all or part of its matching share, the applicant shall submit with its application the following:
 - (1) A copy of the preliminary or final application, as the case may be, it has submitted for such matching funding;
 - (2) A resolution authorizing the application for the grant with original signatures of the authorized officials of the applicant organization; and
 - (3) Other materials as required by the Department in the application instructions.
- (c) Use of Other Matching Funds. If the applicant will not be using FmHA, or CHFA or other Department program funds as its matching share, the applicant shall submit with its application a copy of the following documents:
 - (1) A description of the proposed site and available utilities;
 - (2) A description of the proposed improvements;
 - (3) A plot plan and detailed plans and specifications;
 - (4) A detailed cost breakdown for such items as land acquisition, site development, construction (including rehabilitation), equipment, utility connections, financing, fees and furnishings if such are to be included;
 - (5) Information regarding the financing of the housing development including the amount of grant needed and the source and amount of the matching share;
 - (6) Information on the method of construction or rehabilitation and on the architectural, engineering and legal services to be provided including copies of any contracts for the provisions of these services;
 - (7) Satisfactory evidence of review and approval by the required state and local officials;
 - (8) A market analysis which supports the need for the proposed housing and includes the characteristics of the persons eligible for occupancy including income and estimates of the number of eligible occupants willing and able to occupy the proposed housing;
 - (9) Income ranges of the agricultural households to be served;

- (10) Existing or proposed legal composition of the applicant, including its articles of incorporation or enabling resolution of operating authority, its bylaws, and a list of directors or commissioners, when applicable;
 - (11) Current financial statement for cooperative or nonprofit organization applicants;
 - (12) A description and justification of any related facilities to be financed by the grant;
 - (13) A satisfactory survey of the land;
 - (14) A resolution authorizing the application for the grant with original signatures of the authorized officials of the applicant organization; and
 - (15) Other materials as required by the Department in its application instructions.
- (d) Cooperative and Rental Housing applications should also include:
- (1) Detailed operating budgets for the first year's operation and for a typical year's operation that include:
 - (A) Allowance for vacancies and non-payment of rents or fees;
 - (B) Allowances for accumulation of a reserve account as required by Section 7234; and
 - (C) Separate listings of all applicable federal, state and local taxes.
 - (2) Narrative statements of the proposed manner of managing the housing and information on the qualifications of the management staff.
 - (3) A statement of policy regarding management and operation including method of tenant selection, proposed lease and grievance procedures, and proposed rules and regulations for the housing development.
 - (4) A schedule of proposed rents or cooperative housing fees which indicates that the monthly shelter costs for assisted units will be affordable by low income agricultural households as provided in Section 7204(b).
- (e) Homeownership Applications shall also include:
- (1) Information regarding the financing of the individual dwelling units including the amount of grant needed and the source and amount of matching share; and
 - (2) A breakdown of the pro rata share of the grant which will be applied to each assisted dwelling unit and the criteria used to make such a determination.
- (f) The Director may waive any requirement of this section provided that he/she has determined that the submittal of such information at the time of grant application is unnecessary for adequate evaluation of the feasibility of a proposed housing development.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7220. Grant Cancellation

- (a) After notice has been given to the grantee and other parties with an interest in the housing development, a grant may be canceled. Cancellation may occur after a grant has been approved but before any disbursements have been made or after partial disbursement of the grant, if the following occur:
- (1) The objectives for which the grant is made cannot, for any reason, be met; or
 - (2) Alternative sources of matching financing cannot be obtained by the grantee; or

- (3) The grantee has not abided by the conditions of the Agreement to Enter a Grant Agreement, the Grant Agreement or other agreements executed with the Department.
- (4) The grantee has failed to execute required agreements or to provide necessary documentation within a reasonable time period prescribed by the Department.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Repealer of former Section 7220 and renumbering and amendment of Section 7222 to Section 7220 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7222. Environmental Clearances

- (a) Whenever a proposed housing development is a project which potentially may have a significant impact on the environment and is not categorically exempt, grantees will be responsible for supplying in a timely and responsive way all data and information to all public agencies that have the primary responsibility for complying with requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).
- (b) Program applicants for projects subject to CEQA shall provide the Department with assurances of compliance with CEQA.
- (c) Grantees which are local public entities shall act as lead agency for projects subject to CEQA unless another public entity has assumed the role of lead agency. The activities of the Department regarding implementation of CEQA shall be governed by Subchapter 3 of Chapter 6.5 of Title 25, California Administrative Code (Sections 6940 et seq.).

NOTE Authority cited: Section 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Renumbering and amendment of former Section 7222 to Section 7220 and renumbering and amendment of Section 7224 to Section 7222 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7224. Coordination with Federal Agencies

- (a) Grantees which will utilize federal assistance, such as loans and/or grants from FmHA, as their matching share, shall submit promptly to the Department copies of all letters from the federal agencies that have a bearing on the housing development.
- (b) The department will work with the federal agencies to ensure a coordinated approach to processing and approving applications for housing developments.
- (c) In the event a conflict exists between federal and state regulations, the Department shall yield to the federal regulations insofar as not prohibited by State law or the legitimate interests of the State.
- (d) The Department always maintains the right to monitor housing developments assisted by its grant in areas of concern to the Department.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY Renumbering and amendment of former Section 7224 to Section 7222 and renumbering of Section 7226 to Section 7224 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7)

§7226. Grant Agreement

- (a) In order to close a grant, a grantee is required to execute a Grant Agreement with the Department.

- (b) The Grant Agreement shall be in a form determined by the Department and shall contain, but not be limited to, the following conditions:
- (1) Assisted Units. It shall specify the minimum number of units of the housing development which have been designated as assisted units subject to program occupancy and resale restrictions.
 - (2) Recordation. It shall require the grantee to cause the Grant Agreement to be recorded in the Official Records of the county in which the housing development is or will be situated.
 - (3) Lien. It shall require that a lien be placed on the real property of the housing development in favor of the Department for the purpose of securing performance of the conditions of the Grant Agreement. The lien shall endure for the duration of the Grant Agreement and shall be subject to the provisions of Section 7230.
 - (4) Duration. It shall state that it is binding on the grantee for a term of forty (40) years for new rental construction and new cooperative construction, and a term of twenty (20) years for all other construction. The Department may in its discretion prescribe a lesser period for the duration of Grant Agreements relating to housing to be developed for ownership by individual agricultural households.
 - (5) Conveyance. It shall state that for the duration of the Grant Agreement, no contract for sale or conveyance of the housing development, or any portion thereof, shall be entered into or made without the express prior written approval of the Department, which approval shall be given in accordance with the provisions of Section 7228.
 - (6) Covenants. In addition, the Grant Agreement will contain, but not be limited to, the following covenants:
 - (A) Agricultural households shall be given a priority for occupancy in non-assisted units, and those agricultural households of low income shall be given a preference for occupancy in assisted units.
 - (B) The grantee shall accept the criteria for tenant and homeowner selection that has been determined by the Department for assisted units.
 - (C) The grantee shall accept the terms of occupancy agreements that have been prescribed by the Department for assisted units.
 - (D) With regard to rental and cooperative housing developments, the grantee shall additionally agree to abide by the provisions of Section 7234.
 - (7) The Grant Agreement shall further provide that in the event of a breach of any of its conditions or covenants, the grantee or its successors in interest, the Department shall have the option to enforce the Grant Agreement by proceeding at law or in equity. The Department may, at its option, require the grantee or its successor in interest to immediately repay to the State the total amount of the grant then due with interest. The interest rate shall be the same as the average rate returned by the investment of state funds through the California Pooled Money Investment Board from the date of breach to the date of repayment.
 - (8) It shall provide that in the event of a forced sale or conveyance of the housing development resulting from an action to foreclose on a mortgage or deed of trust, the execution of a judgment lien, or other action resulting in an involuntary sale, the purchaser shall take title subject to these conditions and limitations, unless the

appropriate amount of the grant is returned to the Department in accordance with these regulations.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY Renumbering of former Section 7226 to Section 7224 and renumbering and amendment of Section 7228 to Section 7226 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7228. Conveyance of the Housing Development

The following provisions govern the sale or conveyance of the housing development, or any part thereof.

(a) Conveyance to Agricultural Households for the Purpose of Homeownership. If the grantee intends to sell or convey all or a portion of the housing development to individual agricultural households for the purpose of homeownership, the Department will authorize the sale or conveyance after the following conditions are met:

- (1) Identification of Assisted Units. The grantee must identify any assisted units that will be located in the conveyed portion(s) of the housing development.
- (2) Allocation of Grant Funds. For each assisted unit identified, the grantee shall specify in monetary terms the portion of the grant funds that will be used to reduce the costs of acquiring ownership of the assisted unit by an agricultural household.
- (3) Subsequent Grant Agreement. Prior to or concurrently with the sale or conveyance of an assisted unit, the grantee shall ensure that a representative of the agricultural household which will own the assisted unit executes a Subsequent Grant Agreement with the Department which shall be in a form prescribed by the Department and contain the following conditions:

(A) It shall be binding upon the agricultural household for a term of twenty (20) years.

(B) It shall require the members of the agricultural household to reside in the assisted unit for the duration of the Subsequent Grant Agreement.

(C) It shall contain the following conditions with respect to the sale or conveyance of an assisted unit by the agricultural household.

1. If an assisted unit is sold or conveyed within a period of 10 years from the date of execution of the Subsequent Grant Agreement, an amount equal to the sum allocated to the assisted unit pursuant to subdivision (a)(2) of this section shall be paid to the Department.
2. If an assisted unit is sold or conveyed more than ten years after the date of execution of the Subsequent Grant Agreement, the Department shall be repaid an amount equal to the sum allocated pursuant to subdivision (a)(2) of this section minus 10% of that amount for each additional year that the agricultural household occupies the assisted unit beyond the tenth year.
3. The Department shall determine whether or not any amounts subject to repayment to the Department, as specified above, will be assigned to the new owner in lieu of repayment to the Department.

4. The Subsequent Grant Agreement shall terminate after the grant funds have been repaid to the Department and the assisted unit has been sold or conveyed.
- (4) Recordation of the Subsequent Grant Agreement. The grantee shall cause the Subsequent Grant Agreement and other pertinent documents to be recorded in the official records of the county in which the housing development is located.
- (5) Subsequent Lien. The grantee shall ensure that a lien in favor of the Department is placed against any assisted unit to secure performance of the conditions of the Subsequent Grant Agreement. The lien shall endure for the duration of the Subsequent Grant Agreement and shall be subject to the provisions of Section 7230.
- (6) Sale of Non-assisted Units. After the total number of assisted units has been determined, the Department shall approve the sale or conveyance of any housing units not identified as assisted units and shall, at the time of sale or conveyance, release any such units from the lien securing performance of the Grant Agreement. The grant shall not be used to reduce the acquisition cost of a non-assisted unit.
- (7) Termination of Grant Agreement. The Department shall terminate the Grant Agreement and the lien securing its performance after sale or conveyance of all of the assisted units if all of the conditions of the Grant Agreement have been satisfied, as determined by the Department.
- (8) The Department may charge an administrative fee for its costs in processing a Subsequent Grant Agreement.
- (b) Conveyance For Continued Agricultural Households Occupancy. If the grantee intends to sell or convey the housing development to an entity that will continue to use the development to provide housing for agricultural households, the Department will authorize the sale or conveyance provided that:
 - (1) The successor in interest to the grantee agrees to assume the obligations of the grantee, including the assumption of the conditions and obligations specified in the Grant Agreement between the grantee and the Department.
 - (2) The successor in interest agrees to take title to the housing development subject to the lien securing the Grant Agreement between the grantee and the Department in accordance with Section 7230.
 - (3) The successor in interest agrees to an extension of the duration of the Grant Agreement and lien where the Department has determined that such an extension would be in the best interest of the continued operation of the housing development.
 - (4) The successor in interest has demonstrated to the satisfaction of the Department that it can adequately operate the housing development in accordance with the requirements of the program and meet its obligations under the Grant Agreement.
- (c) Conveyance For Use Other Than Agricultural Household Occupancy. The grantee shall not sell or convey the housing development to an entity that will not continue to use the development to provide housing for agricultural households in accordance with program requirements unless the Department has approved such sale or conveyance. The Department will approve a sale or conveyance provided that the grantee has demonstrated to the satisfaction of the Department that good cause exists for terminating the operation of the housing development as provided in Section 7236; and the grantee repays the state the full amount of the grant.

NOTE Authority cited: Sections 50402, 50406 and 50517.5(d)(5), Health and Safety Code.
Reference: Section 50517.5, Health and Safety Code
HISTORY Renumbering and amendment of former Section 7228 to Section 7226 and
renumbering and amendment of Section 7230 to Section 7228 filed 2-10-83; designated effective
3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7230. Lien

The following provisions shall govern liens concerning the real property of the housing development:

- (a) **Original Lien.** Contemporaneously with the disbursement of the initial funds to a grantee, the Department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, notice of the lien securing the Grant Agreement.
 - (1) The notice of the lien shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development.
 - (2) The notice of the lien shall refer to the Grant Agreement which the lien secures.
 - (3) The notice of the lien shall include a legal description of assisted real property that is subject to the lien.
- (b) **Subsequent Lien.** Contemporaneously with the conveyance of part of the housing development to an agricultural household for homeownership, the Department shall cause to be recorded, in the office of the county recorder the county in which the assisted real property is located, a notice of the lien securing the subsequent Grant Agreement.
 - (1) The notice of the lien shall refer to the Subsequent Grant Agreement for which the subsequent lien secures.
 - (2) The notice of the lien shall include a legal description of the assisted real property that is subject to the subsequent lien.
 - (3) The notice of the lien shall be indexed by the recorder in the Grantor Index to the name of the agricultural household, and in the name of the State of California, Department of Housing and Community Development.
- (c) **Assumption of Lien.** Contemporaneously with the conveyance of the housing development by a grantee to its successor in interest as provided in Section 7228(b), the Department shall cause notice of the lien to be recorded and indexed as described in Subdivision (a) of this Section. The notice of the lien shall reflect the change in ownership of the housing development. The lien shall retain its priority as of the date it was recorded for the original grantee.
- (d) **Subordination of the Lien.** The Department may execute and cause to be recorded in the office of the recorder of the county in which notice of the lien has been recorded, a subordination of the lien, provided that any subordination of the Lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in such subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.
- (e) **Termination of the Lien.** The lien shall endure until released by the Director of the Department pursuant to the terms set forth for the termination of the Grant Agreement.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY Renumbering and amendment of former Section 7230 to Section 7228 and renumbering and amendment of Section 7232 to Section 7230 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7232. Grant Disbursements

- (a) Grant funds shall only be disbursed for payment of obligations which are due or for reimbursement of expenditures previously approved by the Department.
- (b) The grantee must request disbursements of grant funds on a form prescribed by the Department and such requests must be in accordance with authorized amounts set forth in the budget approved by the Department. With the prior approval of the Department, the grantee may transfer any allocations or portions thereof set forth in the approved budget to other allocated items of said budget.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY Renumbering and amendment of former Section 7232 to Section 7230, repealer of Section 7234 and renumbering and amendment of Section 7236 to Section 7232 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7234. Operation of Rental and Cooperative Housing Developments

Except as otherwise explicitly set forth in this section, operation requirements shall refer to the entire development and all units therein, rather than only to the assisted portion:

- (a) **Occupancy Restrictions.** The grantee shall maintain the housing development so that assisted units shall only be occupied by agricultural households in accordance with the provisions of Section 7208(g)(3).
- (b) **Operating Reserves.** Operating reserves for a housing development shall be established as required by Section 8308. The Department, at its discretion, may allow the use of the grant funds to satisfy part or all of this requirement.
- (c) **Replacement Reserve.** Replacement reserves for a housing development shall be established as required by Section 8309.
- (d) **Housing Costs.** The Department will approve a schedule of rents or cooperative housing fees as may be necessary to provide occupants of the housing development with affordable housing costs to the extent consistent with the maintenance of the fiscal integrity of the housing development and the requirements of other agencies which have financed the housing development.
 - (1) The grantee shall not increase the rent or cooperative housing fees on any unit of the housing development without the prior permission of the Department, which shall be given if the grantee demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the housing development and that such increase complies with the procedures and limits required by the federal or other state agencies which have financed the housing development.
- (e) **Occupancy Rules.** Documents, including rental agreements, governing, tenant occupancy of the housing development shall be subject to approval by the Department.
- (f) **Bilingual Services.** The grantee shall provide bilingual services and publications to the occupants of the housing development, as appropriate.
 - (1) If requested, the Department will provide grantees technical assistance in meeting this obligation.

- (g) Maintenance. The grantee shall maintain the housing development in a way which protects the public interest and the health, safety and welfare of its occupants, and the secured interest of the Department.
- (h) Right of Inspection. The Department may, through its agents or employees, with prior notice enter upon and inspect the lands, buildings, and equipment of the grantee, including books and records, at any time before, during or after the construction or rehabilitation of the housing development.
 - (1) The Department shall neither enter or inspect any unit which is occupied, whether or not the occupant is present, without the prior consent of the occupant.
 - (2) After inspection of the housing development, the Department may require such repairs or corrections as may be necessary to protect the public interest or the health, safety, or welfare of the occupants of the housing development.

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY . Repealer of former Section 7234 and renumbering of Section 7238 to Section 7234 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No.

§ 7236. Termination of Grant Agreement

(a) A grantee may terminate a Grant Agreement upon request provided that the grantee repays the Department the full amount of the grant and the Department has determined that one or more of the following or similar circumstances has occurred which makes the continued operation of the housing development in compliance with Program requirements no longer feasible:

- (1) The employment of agricultural workers has greatly decreased in the area.
- (2) A sufficient number of agricultural workers and their families in fact do not apply to live in the housing development.
- (3) The dwelling units of the housing development are no longer suitable because of design, size, or age, for the housing needs of the agricultural workers and their families employed in the area.
- (4) The grantee's continued operation of the housing development is no longer financially feasible and the grantee has demonstrated to the satisfaction of the Department that it has made a good faith effort to convey the housing development in accordance with Section 7228(b).

NOTE Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Renumbering and amendment of former Section 7236 to Section 7232 and renumbering and amendment of Section 7240 to Section 7236 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).§7238. Disposition of Recaptured Grant Funds. All funds, including interest therefrom, repaid to the Department because of termination, sale, conveyance, default, recapture or any other reason, will be deposited in the Farm Worker Housing Grant Fund.

§7238. Disposition of Recapture Funds

All funds, including interest therefrom, repaid to the Department because of termination, sale, conveyance, default, recapture or any other reason, will be deposited in the Farm Worker Housing Grant Fund.

NOTE Authority cited: Sections 50402, 50406 and 50517.5(b), Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY 1. Renumbering and amendment of former Section 7238 to Section 7234 and renumbering and amendment of Section 7242 to Section 7238 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§7239. Uniform Multifamily Underwriting and Program Rules

- (a) The following sections of title 25, Division 1, Chapter 7, Subchapter 19 are hereby incorporated by reference into this subchapter and shall apply to rental housing developments receiving assistance from the Farmworker Housing Grant Fund.
 - (1) Section 8302. Restrictions on Demolition;
 - (2) Section 8303. Site Control Requirements.
 - (3) Section 8304. Unit Standards;
 - (4) Section 8305. Tenant Selection;
 - (5) Section 8306. Tenant Recertification and Unit Mix Maintenance;
 - (6) Section 8307. Rental Agreement and Grievance Procedure;
 - (7) Section 8310. Underwriting Standards;
 - (8) Section 8311. Limits on Development Costs;
 - (9) Section 8312. Developer Fee.
 - (10) Section 8313. Reserved.
 - (11) Section 8314. Use of Operating Cash Flow.
 - (12) Section 8315. Subordination Policy.
 - (13) Section 8316. Leasehold Security.
- (b) For purposes of this section 7239 and subsections (b) and (c) of section 7234, the definitions found in Section 8301 shall apply.
- (c) In the event of a conflict between the provisions of Subchapter 19 and this Subchapter 3, the provisions of this Subchapter 3 shall prevail.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.